

## **Environment and Communities Committee**

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| <b>Date of Meeting:</b>     | 1 <sup>st</sup> July 2022                                      |
| <b>Report Title:</b>        | Macclesfield Town Centre Public Spaces Protection Order (PSPO) |
| <b>Report of:</b>           | Jayne Traverse – Executive Director Place                      |
| <b>Report Reference No:</b> | EC/09/22-23  |
| <b>Ward(s) Affected:</b>    | Macclesfield Central Ward                                      |

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### **1. Purpose of Report**

- 1.1. The purpose of the report is to consider the implementation of a Public Spaces Protection Order (PSPO) for Macclesfield Town Centre in response to ongoing anti-social behaviour.

### **2. Executive Summary**

- 2.1. The Council is responsible for the consideration, implementation and monitoring of all Public Spaces Protection Orders (PSPO's) across the Borough under the Anti-Social Behaviour Crime and Police Act 2014. It is the responsibility of local authorities to consider requests for such orders and have policies and procedures in place which allow decisions on proposed PSPOs within their area to be made. It is also important to note that legislation stipulates that it is only Councils who can implement these orders.
- 2.2. For the Council to consider a potential PSPO, a nomination must first be made to the Multi-Agency Action Group (MAAG), whereby an initial decision will be made in line with the Councils PSPO Procedure as to whether a stakeholder group should be set up to discuss the possibility of an order.
- 2.3. This process would have been followed for PSPO's to tackle alcohol related behaviour in the past for other areas of the borough. The decision as to why an order like the one proposed for Macclesfield Town Centre might as not be recommended to proceed could include:
- Lack of police related incidents to evidence persistent behaviour and detrimental impact on the community.

- Lack of evidence to show that alternatives have been attempted to tackle/design out the behaviour.
- The behaviour can be narrowed down to a minority of known, repeat offenders who have already been identified and can be tackled using other police powers or powers under the Anti-Social Behaviour Crime and Police Act 2014.
- The behaviour is displayed by young people under the age of 18, police legislation already exists in relation to the legal confiscation of alcohol and partnership working with police and other relevant agencies would be undertaken to tackle the ASB displayed by Young People
- The relevant lead on the requested PSPO (normally a Police Inspector, ASB Lead and or/relevant Town or Ward Councillor) has agreed that a PSPO is no longer required or has asked that the steps above are consider first.

**2.4.** In May 2021 Cheshire Constabulary's North Local Policing Unit Sergeant submitted a nomination to the Neighbourhood Services Multi-Agency Action Group (MAAG) requesting consideration of a PSPO for Macclesfield Town Centre and surrounding areas due to an increase in incidents involving adults involved in alcohol fuelled Anti-Social Behaviour. MAAG agreed that the initial legal thresholds had been met and to pursue further investigation into the possibility of a PSPO in line with the Council's Anti-Social Behaviour (ASB) Enforcement Policy and PSPO procedure.

**2.5.** Since May 2021 a draft order has been developed and the decision was taken in accordance with delegated powers under the constitution by the Director of Environment and Neighbourhood Services in January 2022 to take the draft order to public consultation. The public consultation has now ended. A summary has been produced and is provided at appendix 4. The Committee are now asked to consider implementation of this order.

**2.6.** The Council's Corporate Plan 2021-25 sets out our vision for a more open, fairer, greener Cheshire East. The plan also sets out priorities under the three broad aims including "welcoming, safe and clean neighbourhoods". Implementation of this PSPO will support the achievement of this priority and in particular the action to "Use our full range of education, engagement and enforcement tools to protect our communities. Take formal enforcement action as appropriate, to reduce offending and increase compliance"

### **3. Recommendations**

- 3.1. That the committee approves the proposed PSPO, as provided in appendices 1A and 1B, with a commencement date of 18th July 2022 and a duration of 3 years.

#### **4. Reasons for Recommendations**

- 4.1. The consideration for the application of this PSPO has followed the Council's ASB Enforcement Policy and its PSPO procedure as provided in appendices 2 and 3. Approval and implementation of the PSPO must be submitted to Committee for a decision before it can become a legal order.
- 4.2. The public consultation held in relation to the proposed PSPO evidenced that 93% of those who took part were in support of the order and the requirements/prohibitions it sets out.
- 4.3. Implementation of this order will give additional powers to Police Officers, Police Community Support Officers and Authorised Officers of the Council to act on any Anti-Social Behaviour as early and as swiftly as possible. It will send an important message to those living, working in, and visiting Macclesfield Town Centre that we have listened to the concerns they have raised and acted accordingly to deal with matters that have been having a detrimental impact of their lives.
- 4.4. It has been identified that a lot of the incidents within the Town Centre have been initially fuelled by individuals and groups of individuals purchasing their own alcohol and choosing to sit and drink the alcohol in public. There are currently no other powers that can be utilised in relation to requests to hand alcohol over to authorised officers. If these powers were handed to officers, it would allow them to request that the root cause is handed over to them, this will help to alleviate potential more serious, criminal behaviour. The PSPO will also assist officers to focus attention on those minority who are set on blatantly ignoring such requests and continuing with their behaviour.
- 4.5. The Council does not wish to deter people from using the town's seating areas and visiting the area to relax and enjoy the surroundings responsibly. However, via representation through stakeholder meetings, incident reports and through elected members it is apparent that the current behaviour is impacting on people wanting to visit the area. For over 24 months now members of the public and businesses alike have been subject to rowdy, loutish behaviour from a minority because of the consumption of alcohol in public and subsequent behaviours that tend to follow this (such as using the area as a public toilet). This can be during the day or during the evening when those who have visited the area to enjoy its night-time economy have used walls, flowerbeds, and shop frontages as toilet areas on their commute home.

#### **5. Other Options Considered**

- 5.1. The order is not implemented, and Police Colleagues use other powers to deal with offenders as and when the behaviour meets a criminal threshold, rather than trying to stop the behaviour before it reaches that point.

| Option     | Impact  | Risk  |
|------------|---|---|
| Do nothing | Behaviours displayed as outlined in this report will continue until criminal offences are committed and police colleagues have the power to deal with them. Negating an opportunity to deal with them at a much earlier opportunity | <p>Reputational issues for the council having had the opportunity to put things in place assist in tackling this behaviour sooner.</p> <p>Members of the public might be subject to the impact of more serious behaviour when it could have been deterred at an earlier stage</p> |

## 6. Background

- 6.1. Macclesfield Borough Council previously placed a Designated Public Places Order (DPPO) within a similar footprint of the town centre that the proposed PSPO will cover. This order gave Police Officers the power to confiscate open vessels of alcohol from individuals if they believed that further consumption of the alcohol would lead to public nuisance/disorder. It did not however allow for any powers to be used against those who refused or allow for further action in relation to repeat offenders of this behaviour. This legislation was discontinued on the arrival of the ASB Crime and Policing Act 2014 and was replaced with Public Spaces Protection Orders. Councils were able to carry over any DPPO's beyond an automatic 3-year period from commencement of the new Act if there was evidence in place to show that this was proportionate and incident thresholds were met. Unfortunately, at the time evidence of this was required in 2017, there was no evidence to support that a PSPO was required in the area, so the DPPO was allowed to discontinue.
- 6.2. The Council's Anti-Social Behaviour Team put in place processes and procedures considering the new Act that would allow police and other partner agencies to nominate areas that required consideration for a PSPO to their Multi-Agency Action Group (MAAG) as and when incidents evidenced the need. The most up to date procedure is included at appendix 3. Unlike the old DPPOs, PSPOs give additional powers and thresholds to allow authorised officers to deal with anti-social behaviour impacting on wider members of the public quickly and efficiently (once in place), with consequences leading to court action should the requirements of the order not be followed.
- 6.3. In May 2021 the matter was nominated to the MAAG by Macclesfield Local Policing Unit Sergeant. Incidents reported included individuals entering shops, demanding alcohol is served to them, causing public disorder and damage offences if this was refused. Targeting of the Age Uk shop causing disturbances, putting off and scaring customers and causing staff members to resign, most of which were voluntary workers and some elderly members of the community. Urinating and defecating in public during the day and evening in shop doorways and planters being either witnessed by staff/public or people visiting/arriving at the Town the next day to the results.

- 6.4. At the time of the MAAG nomination Police confirmed that the area the PSPO is proposed to cover was responsible for over 40% of the total number of ASB incidents for the whole of Macclesfield since July 2021, all behaviours being related back to the issues that the PSPO proposes to cover. One business premises alone had reported over 30 incidents between January 2021 and April 2021 outlining alcohol related Anti-Social Behaviour/offences.
- 6.5. At the MAAG held on 20<sup>th</sup> May 2021 it was agreed that the matter be considered further and that a key stakeholder group was set up to look at a consideration for a PSPO in more detail.
- 6.6. On 17<sup>th</sup> June 2021 an initial stakeholder meeting was held to discuss further the PSPO consideration. In attendance were Police, Lead CEC officers, relevant Ward and Town Cllrs, and representatives from two of the businesses who have been subject to the related behaviours.
- 6.7. A detailed police incident document highlighting Anti-Social, and Alcohol related incidents was submitted by the Sergeant to the Council's ASB and Community Enforcement Team Manager. The document detailed a list of 561 incidents from July 2020 – July 2021, all of which were not directly associated with the area being considered for the PSPO but there were enough incidents listed within the report to satisfy the need to progress the consideration of a PSPO further.
- 6.8. A draft order was produced and discussed with the stakeholder group on 14<sup>th</sup> January 2022, with minor amendments were made ahead of public consultation.

## **7. Consultation and Engagement**

- 7.1. There is a legal requirement to consult with members of the public in relation to any proposed PSPO that the Council wishes to implement under Part 4 Chapter 2 section 72 of the Anti-Social Behaviour Crime and Policing Act 2014.
- 7.2. The public consultation ran from 31<sup>st</sup> January 2022 until 14<sup>th</sup> March 2022. A summary of the results is provided at appendix 4 of this report. 97 responses were received to the consultation. Overall, 93% of the respondents either agree or strongly agree with the proposal.
- 7.3. The proposed PSPO has been placed on the Council's website alongside our other existing orders. Once a decision on the proposed order has been made, this will be published on the website alongside a summary of the consultation results and subsequent FAQs gathered from the open-ended responses.
- 7.4. If the PSPO is implemented this will also be published on our website. Alongside this a publicity campaign will be instigated with the Council's and Cheshire Constabularies Communications Teams. The implementation of the order will commence throughout the Summer of 2022, including the installation of signage in key areas of the town. Enhanced joint patrols will take place in

order to Engage, Educate, Encourage on the PSPO with a view to moving to Enforcement for those who are blatantly ignoring the terms of the PSPO.

## **8. Implications**

### **8.1. Legal**

- 8.1.1.** The local authority's duties and powers in relation to Public Spaces Protection Orders are prescribed by Part 4, Chapter 2 of the Anti-Social Behaviour Crime and Policing Act 2014.
- 8.1.2.** Non-compliance with a prohibition or requirement in a PSPO is a criminal offence. Members should only make the Order if satisfied on reasonable grounds that:
  - 8.1.2.1.** The activities complained of in this report are being carried on in a public place or it is likely they will be carried on in a public place, and the activities have or will have a detrimental effect on the quality of life of those in the locality.
  - 8.1.2.2.** The effect or likely effect of the activities complained of in this report are, or are likely to be, persistent or continuing such as to make those activities unreasonable in the locality thereby justifying the imposition of a prohibition or requirement.
- 8.1.3.** Members should be satisfied that the prohibitions or requirements of the PSPO are ones that it is reasonable to impose to prevent or reduce the detrimental effect of the activities complained of in this report.
- 8.1.4.** Members should be satisfied that the PSPO identifies the activities complained of in this report and includes a statement that where the consumption of alcohol is prohibited a constable or authorised person may require it not to be consumed and or require its surrender, and that a failure to do so without reasonable excuse is an offence. The PSPO must include the period during which it will have effect.
- 8.1.5.** Members should be aware that an individual who either lives in the restricted area contained in the PSPO or works or regularly visits there, has a right within six weeks of the PSPO being authorised to apply to the High Court for an order that it is not valid because the Council did not have the power to make the PSPO, or include a particular requirement or prohibition within it because it is either not reasonable in scope or the grounds for it are not reasonable or do not exist. Members must satisfy themselves that it has the power to make the PSPO and the prohibitions and or requirements are reasonable in scope and there are grounds for imposing them.
- 8.1.6.** Members in deciding whether to authorise the PSPO must have regard to the rights of freedom of expression and freedom of assembly under Articles 10 & 11 of the European Convention on Human Rights as incorporated into UK law by the Human Rights Act 1998. Thus, an individual has a right to express themselves in public and the right to peaceful assembly and

association, which can only be restricted in accordance with the law and where necessary to protect public safety and or for the prevention of crime and disorder.

- 8.1.7.** A PSPO will satisfy Article 10 & 11 if it is made in accordance with the provisions of the Anti-Social Behaviour Crime and Policing Act 2014 and the prohibitions and or requirements within it are necessary to protect public safety and or prevent crime and disorder as is the case here.
- 8.1.8.** Members may only authorise a PSPO to have effect for 3 years or less.
- 8.1.9.** Enforcement and Investigation in relation to the breach of the PSPO will be undertaken in line with:
- Anti-Social Behaviour Crime and Policing Act 2014
  - Regulations of Investigatory Powers Act 2000 (RIPA)
  - Police and Criminal Evidence Act 1984 (PACE)
  - Criminal Procedure and Investigations Act 1996
- 8.1.10.** Whilst enforcement of the requirements or prohibitions of the PSPO can be undertaken by the Police or an authorised individual or individuals within the Council, the burden of prosecuting offences arising from noncompliance will rest solely with the Council.

## **8.2. Finance**

- 8.2.1.** Consideration will need to be given to the cost of signage for key parts in and around the area that the PSPO will cover. During stakeholder meetings it has been agreed that costs will be met via an initial application to the PCC for funding. However, should this not be successful all key stakeholders will need to agree a shared cost dependant on the level of signage agreed. It is anticipated that any contribution Cheshire East Council may be required to make would not exceed £2500 which if needed could be funded from within the Neighbourhood Services Anti-Social Behaviour Team Budget.
- 8.2.2.** Staffing/policing of this order, if implemented would primarily be via Cheshire Constabulary who are also authorised to police PSPO's and issue FPN's for breach of PSPO's. Any staffing support supplied by the Council will be via the Neighbourhood Services Community Enforcement Team as and when necessary and in line with the team's service specific enforcement policy. This is covered within the existing Community Enforcement Team Budget

## **8.3. Policy**

- 8.3.1.** Implementation of the PSPO will support the Corporate Plan 2021-25 to provide welcoming, safe, and clean neighbourhoods, to reduce anti-social behaviour and improve our environment.
- 8.3.2.** Officers of the Council who are authorised to enforce against PSPO's will do so in line with the Council's Corporate Enforcement and Service Specific Enforcement Policies.

#### **8.4. Equality**

- 8.4.1.** An equality impact assessment has been undertaken; no equality implications have been identified.

#### **8.5. Human Resources**

- 8.5.1.** There may be occasions when the councils Community Enforcement Team issue fixed penalty notices (FPN's), the issuing of FPN's may have an additional resource demand on legal services, however the volume is expected to low as the aim of the PSPO is to enable the police to deal with incidents in a timely and swift nature.

#### **8.6. Risk Management**

- 8.6.1.** There is a reputational risk to the Council if it appears that the policy, procedure, and legal thresholds within the relevant legislation have not been met. As highlighted under section 8.1.4 the validity of the order itself can be challenged.

#### **8.7. Rural Communities**

- 8.7.1.** There are no implications for Rural Communities.

#### **8.8. Children and Young People/Cared for Children**

- 8.8.1.** There are no implications for Children and Young People/Cared for Children. There are already powers in place that can deal with young people under the age of 18 in possession of alcohol. The PSPO is for the purpose of dealing with those over 18.

#### **8.9. Public Health**

- 8.9.1.** The PSPO will help in the reduction of incidents of alcohol related ASB, which should in return have a positive impact on residents' health through providing a mechanism to create safer neighbourhoods and deal with issues at the earliest opportunity.
- 8.9.2.** Questions have been raised in relation to the order being used to unfairly tackle those who street are homeless. This is not the case; a lot of work has been undertaken with Police and the Council's Homelessness Relief Teams and continues. Most of the individuals who have been spoken to and dealt with in relation to the behaviour the Council are seeking to tackle have housing provision but have made lifestyle choices that include partaking in the sitting and gathering in public areas to drink alcohol and where appropriate referrals will be made to the appropriate council team(s) in relation to substance misuse.
- 8.9.3.** Concerns have also been raised in relation to the issuing of Fixed Penalty Notices (FPN) to those who cannot afford to pay them. In relation to the requirements around alcohol, it is anticipated that there will be little requirement to issue FPN's as the order is not breached unless the individual

refuses to hand over the alcohol. Individuals who are struggling to pay a FPN within the set time will be encouraged to contact the council as soon as possible, furthermore it should be noted that any FPN's will only be issued to people of 18 years of age or older.

## 8.10. Climate Change

8.10.1. There are no implications on climate change.

| <b>Access to Information</b> |   |
|------------------------------|---|
| Contact Officer:             | Laura Woodrow-Hirst – ASB and Community Enforcement Manager<br><a href="mailto:Laura.woodrow-hirst@cheshireeast.gov.uk">Laura.woodrow-hirst@cheshireeast.gov.uk</a><br>Tel: 01270 685895  |
| Appendices:                  | Appendix 1A and 1B – Macclesfield Town Centre proposed PSPO and plan<br><br>Appendix 2 – Anti-Social Behaviour Enforcement Policy<br><br>Appendix 3 - CE PSPO Procedures Jan 2022<br><br>Appendix 4 – Macclesfield Town Centre PSPO Consultation Summary  |
| Background Papers:           | Cheshire East Councils PSPO webpage: <a href="http://cheshireeast.gov.uk">Public Spaces Protection Orders (PSPO's) (cheshireeast.gov.uk)</a><br><br>Cheshire East Councils Corporate Enforcement Policy: <a href="#">Cheshire East Enforcement Policy</a><br><br>ASB Crime and Policing Act 2014 – Guidance for Professionals: <a href="http://publishing.service.gov.uk">[Title] (publishing.service.gov.uk)</a> |